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In re Application of	:	NOTIFICATION
KANEGAE et al.	:	
Application No.: 10/530,039	:	
PCT No.: PCT/JP03/12580	:	
Int. Filing Date: 01 October 2003	:	
Priority Date: 01 October 2002	:	
Attorney Docket No.: 8048-1101	:	
For: INFORMATION RECORD MEDIUM . . .	:	
AND DATA STRUCTURE CONTAINING	:	
CONTROL SIGNAL	:	

This application is before the Office of PCT Legal Administration for consideration of matter arising under 35 U.S.C. 371.

BACKGROUND

On 01 October 2003, applicant filed international application PCT/JP03/12580, which designated the United States and claimed a priority date of 01 October 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 April 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 April 2005.

On 01 April 2005, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 15 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 04 January 2006, applicants filed a "RESPONSE TO NOTIFICATION TO FILE MISSING REQUIREMENTS" which included a declaration of inventors.

DISCUSSION

37 CFR 1.41(a)(4) states:

The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis. See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

The declaration filed 04 January 2006 does not list the inventorship set forth in the international application. The declaration identifies Akira IMAMURA as an inventor. However, this person is not listed as an inventor in the international application. A Form PCT/IB/306 (NOTIFICATION OF THE RECORDING OF A CHANGE) from the International Bureau indicating that an inventor has been added does not appear in the file. Nor is there any other indication that a PCT Rule 92^{bis} change has been made in the above-identified international application. Accordingly, the inventorship in the national stage is the inventorship set forth in the international application and the declaration filed 04 January 2006 is not sufficient.

Additionally, the declaration filed 04 January 2006 does not comply with 37 CFR 1.497(a)-(b) since it executes the wrong application; it executes PCT/JP03/12586 rather than PCT/JP03/12580.

CONCLUSION

Applicants are required to file a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) within a time limit of ONE MONTH from the date of this decision or within the time remaining in the response set forth in the NOTIFICATION mailed 15 November 2005, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the NOTIFICATION mailed 15 November 2005 may be extended under 37 CFR 1.136(a).

The declaration must name the inventive entity named in the international application, or a proper change of inventorship under 37 CFR 1.497(d) must be filed, or a Form PCT/IB/306 indicating a change effected under PCT Rule 92^{bis} corresponding to the declaration filed 04 January 2006 must be filed. The declaration must also execute the correct application.

Failure to timely file a proper reply will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT,

Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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